

REMARKS

On March 7, 2006, the applicants' undersigned representative conducted a telephone interview with the Examiner. The applicants agree with the Examiner's summary of the interview as expressed in the Interview Summary mailed March 14, 2006 and restate the summary by reference herein. The applicants would like to thank the Examiner for taking the time to discuss the present application.

On March 6, 2006, unrelated to patentability, the applicants submitted amendments to claims 34 and 35 and added new claims 36-38; however, the Examiner did not consider these amendments when preparing the office action of March 9, 2006. Thus, these amendments are again provided above in the present claim listing. Subject matter support for these amendments to the claim set can be found in various places of the description including page 7 lines 6-13, FIG. 5, and page 8 lines 7- 27.

Claims 1, 5, 6 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Magee et al. (U.S. Patent Application Publication Number 2004/0198379, hereinafter "Magee"), claims 34-35 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Chen et al. (U.S. Patent Application Publication Number 2003/0157945, hereinafter "Chen"), and claims 2, 7-9, 12-14, 17, 27 and 29-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Magee in view of Chen. The Examiner's thoughtful reply in the *Response to Arguments* section of the last office action is appreciated; however, respectfully disagreeing, reconsideration is requested by the applicants.

Regarding claims 34 and 35, the Examiner cites Chen as teaching what is claimed. However, the Examiner has not specified where or explained how Chen supposedly teaches or suggests what is claimed. The applicants submit that this is an improper rejection and request that the Examiner provide a particular basis for rejecting claims 34 and 35 in a non-final office action. The applicants can only presume that the Examiner is relying on Chen FIG. 4, messages 406, 408, 410, 412 and 414, and Chen [0049-0052] as suggesting what is claimed. However, the applicants submit that Chen

does not teach or suggest sending by the BS a short data acknowledgment message to **the network equipment** (from which it received a short data delivery message) **indicating whether a response from the MS was received** for the signaling of the MS, by the BS in response to the short data delivery message. Rather, the applicants submit that Chen teaches merely that the “BSC may acknowledge the receipt of the A9-SDB message from the PCF by returning 408 an, e.g., A9-SDB, acknowledge message, which may include an indication **that the BSC may attempt to send the data to the mobile as a SDB**” (Chen [0050], emphasis added) and that “If the BSC could not successfully send the SDB to the mobile in step 410, the BSC may send 414 **the SDB data to the MSC in a BSC service request message**” (Chen [0052], emphasis added).

Independent claim 1 as amended recites:

monitoring, by a wireless communications network, messaging and messaging responses of a mobile station (MS), wherein the messaging and the messaging responses do not specify a presence state of the MS or a presence state change by the MS;
inferring, by the wireless communications network, a change in the presence state of the MS based upon the monitoring, wherein inferring comprises inferring the MS presence state has changed when the presence state of the MS indicates that the MS is present and messaging is detected that indicates MS activity from the group consisting of powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network, and involved in other communication.

Independent claim 28 as amended recites:

a wireless presence proxy...
adapted to monitor the messaging and the messaging responses of the MS, wherein the messaging and the messaging responses do not specify a presence state of the MS or a presence state change by the MS,
adapted to infer a change in the presence state of the MS based upon the monitoring, wherein being adapted to infer comprises being adapted to infer the MS presence state has changed when the presence state of the MS indicates that the MS is present and messaging is detected that indicates MS activity from the group consisting of powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network, and involved in other communication.

The Examiner cites FIG. 2 boxes 110 and 112 and Magee [0014] as teaching this

claim language. Magee [0014-0017] (the text describing FIG. 2 boxes 110 and 112 is included in Magee [0016-0017]) reads (emphasis added):

[0014] Instant messaging and presence server (IMPS) 70 is coupled to location server 60 and to presence proxy 50. Presence proxy 50, location server 60 and presence server 70 comprise the packet switched portion of the home network 100. When location server 60 detects the mobile station 10 within a particular geographic area for which presence services are available, location server 60 sends a signal which triggers presence server 70. Presence server 70 evaluates the particular subscriber 10 against the stored contact list. If the contact list and its associated database indicate notification of presence services are permissible, presence server 70 sends the information via presence proxy 50 to mobile station 10 via base station 20. Location server 60 detects particular conditions for transmitting the triggering signal to presence server 70. For example, if mobile station 10 has entered a shopping mall, school or sports stadium, for example.

[0015] Typically, **the mobile station 10 determines its geographic location and updates location server 60 with its location.**

[0016] Referring to FIG. 2, a flow chart of the operation of the mobile station or device 10 is shown. The process is started and block 110 is entered. The user or subscriber powers on the mobile station, block 110. Next, block 112 is entered which the mobile station determines whether it is provisioned for the presence feature. If the mobile station 10 is not equipped or provisioned with the presence feature, block 112 transfers control to block 114 which ends the process.

[0017] If the mobile device is equipped with the presence feature, block 112 transfers control to block 116 via the yes path. In block 116 the subscriber requests location notification lists from the presence server 70. Next, in block 118 the presence server 70 downloads or transmits the notification list associated with that geographic location to the mobile station 10.

The amended claims recite that the messaging and the messaging responses monitored **do not specify a presence state of the MS or a presence state change by the MS**. Assuming one equates “location” with “presence state,” as it appears the Examiner is doing, Magee [0015] appears to teach away from this portion of the claim language with the MS determining its geographic location and then updating the location server 60 with its location, i.e., specifying its location.

The amended claims also recite that inferring / being adapted to infer comprises inferring / being adapted to infer **the MS presence state has changed when** the presence state of the MS indicates that the MS is **present** and **messaging is detected**

that indicates **MS activity** from the group consisting of **powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network, and involved in other communication**. The applicants fail to see how Magee [0014], as cited by the Examiner and quoted above, teaches or suggests what is recited by claims 1 and 28.

Since none of the references cited, either independently or in combination, teach all of the limitations of independent claims 1, 28 or 34, or therefore, all the limitations of their respective dependent claims, it is asserted that neither anticipation nor a prima facie case for obviousness has been shown. No remaining grounds for rejection or objection being given, the claims in their present form are asserted to be patentable over the prior art of record and in condition for allowance. Therefore, allowance and issuance of this case is earnestly solicited.

The Examiner is invited to contact the undersigned, if such communication would advance the prosecution of the present application. Lastly, please charge any additional fees (including extension of time fees) or credit overpayment to Deposit Account No. **502117 -- Motorola, Inc.**

Respectfully submitted,
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